

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

MICHELLE LAWRENCE, Derivatively and  
on Behalf of ITT EDUCATIONAL  
SERVICES, INC.,

Plaintiff,

vs.

KEVIN M. MODANY, DANIEL M.  
FITZPATRICK, JOHN E. DEAN, JOHN F.  
COZZI, JAMES D. FOWLER, JR., JOANNA  
T. LAU, VIN WEBER, and JOHN A. YENA,

Defendants,

and

ITT EDUCATIONAL SERVICES, INC.,

Nominal Defendant.

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**CASE NO. 1:14-cv-2106-TWP-DML**

**ORDER**

The parties having filed their Agreed Motion to Stay Proceedings and Establish Schedule (Dkt. 11), and the Court being duly advised

IT IS HEREBY ORDERED:

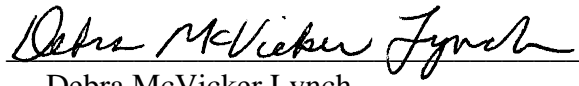
1. Attorneys Whistler's and Mixdorf's special appearances on behalf of Defendants in this lawsuit (the "Derivative Action") are acknowledged. Neither the parties' motion nor Defendants' attorneys' special appearances shall constitute a waiver of any objection any of the Defendants may have to the jurisdiction of this Court.
2. This action is stayed until the earlier of any of the following events (the "Termination Date"): (i) the passage of thirty (30) days after written notice of termination has been

- provided by any party in the Derivative Action to all other parties in the Derivative Action, (ii) the lawsuit *David Banes, et al. v. Kevin Modany, et al.*, Case No. 14-1599-TWP-DML (the “Indiana Securities Action”) is dismissed with prejudice, or (iii) any of the Defendants in the Indiana Securities Action file an answer in that action.
3. In the event that any discovery is provided or produced by any Defendants to Plaintiff in the Indiana Securities Action, by way of Court order or otherwise, at any time prior to the Termination Date, Defendants will at or about the same time notice Plaintiff and provide copies of that discovery to Plaintiff in the Derivative Action, conditioned upon the entry of a court order providing that all documents produced to Plaintiff in the Derivative Action will be kept strictly confidential and will be used exclusively for the purpose of the Derivative Action.
  4. In the event that any Defendants produce documents to any other plaintiff in any other derivative action purportedly brought on behalf of ITT arising from similar facts as the instant action relating to the same time frame (and not including *Wilfred v. Modany, et al.*, No. 13-cv 3110 (S.D.N.Y.) or *Nottenkamper v. Modany, et al.*, C.A. No. 14-672 (D. Del.)) at any time prior to the Termination Date, Defendants will at or about the same time notice Plaintiff and provide copies of that discovery to Plaintiff in the Derivative Action, conditioned upon the entry of a court order providing that all documents produced to Plaintiff in the Derivative Action will be kept strictly confidential and will be used exclusively for the purpose of the Derivative Action.
  5. Plaintiff will have thirty (30) days from the Termination Date to file an Amended Derivative Complaint or, in the alternative, to rest upon the existing complaint (the

“Complaint”). Defendants will answer, move against, or otherwise respond to the Amended Derivative Complaint or the Complaint, as the case may be, within sixty (60) days after Plaintiff files an Amended Derivative Complaint or rests upon the Complaint.

6. In the event that Defendants file and serve any motions directed at the Amended Derivative Complaint or the Complaint, as the case may be, Plaintiff shall file and serve her opposition within sixty (60) days after service of Defendants’ motion. If Defendants file and serve a reply to Plaintiff’s opposition, they will do so within thirty (30) days after Plaintiff’s service of the opposition.
7. Counsel for Plaintiff in the Derivative Action will be provided reasonable notice of any mediation for purposes of settlement that might be held in the Indiana Securities Action.

Dated: March 11, 2015

  
Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

Counsel of record via ECF